


DEC 8 9 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JOHN P. CORCORAN, CLERK
BY:  DEPUTY CLERK

SUE E. MAWYER,

Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security

Defendant.

CIVIL ACTION No. 3:04CV00083

ORDER

JUDGE NORMAN K. MOON

This matter comes before the Court on appeal from the final decision of the Commissioner, which denied the Plaintiff's July 31, 2002 claim for a period of disability, disability insurance, and supplemental security income benefits under the Social Security Act (Act), as amended, 42 U.S.C. §§ 416, 423, and 1381 *et seq.* The Plaintiff appealed the Commissioner's denial of disability benefits, filing a complaint with this Court on October 15, 2004. This matter was referred to United States Magistrate Judge B. Waugh Crigler for proposed findings of fact, conclusions of law, and a recommended disposition. *See* 28 U.S.C. § 636(b)(1)(B). Both the Plaintiff and the Commissioner filed motions for summary judgment. In his Report and Recommendation of August 26, 2005, the Magistrate recommended that this Court reverse the Commissioner's final decision, granting judgment to the Plaintiff, and recommitting the case for the sole purpose of calculating and paying proper benefits.

The court reviews *de novo* those portions of the report or specified proposed findings or

recommendations to which objection was made. *See* 28 U.S.C. § 636(b)(1) (West 1994 & Supp. 2002). Having thoroughly considered the Report and Recommendation, the Commissioner's objections, the supporting memoranda, the applicable law and the documented record, and for the reasons stated in the accompanying Memorandum Opinion, it is this day

ADJUDGED, ORDERED, AND DECREED

1. The Magistrate Judge's Report and Recommendation of August 26, 2005 shall be, and it hereby is, ADOPTED in its entirety;
2. The Defendant's Objections of September 14, 2005 shall be, and they hereby are, OVERRULED;
3. The Defendant's August 8, 2005 Motion for Summary Judgment shall be, and it hereby is, DENIED;
4. The Plaintiff's June 6, 2005 Motion for Summary Judgment shall be, and it hereby is, GRANTED;
5. The final decision of the Commissioner shall be, and it hereby is, REVERSED;
6. The case shall be, and hereby is, REMANDED to the Commissioner for the purpose of calculating and paying proper benefits;
7. This case shall be, and hereby is, STRICKEN from the docket of this Court.

The Clerk of the Court is hereby directed to send a certified copy of this Order and the accompanying Memorandum Opinion to the Magistrate Judge and to all counsel of record.

ENTERED:


United States District Judge


Date